

Thomas C. Riney – Texas Bar No. 16935100

triney@rineymayfield.com

RINEY & MAYFIELD LLP

600 Maxor Building

320 S. Polk Street

Amarillo, Texas 79101

Telephone: 806.468.3201

Facsimile: 806.376.4509

ATTORNEY FOR THE REORGANIZED
AHF BOARD

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

In re:	§	
	§	Chapter 11
American Housing Foundation,	§	
	§	
Debtor.	§	
	§	Case No.: 09-20232-RLJ

**SUPPLEMENTAL RESPONSE OF THE REORGANIZED AHF BOARD TO THE
EMERGENCY MOTION FOR INTERIM AND FINAL ORDER
INTERPRETING/ENFORCING THE CONFIRMATION ORDER AND PLAN**

[Related Docket No. 2260]

Pursuant to the leave granted by the Court to file additional pleadings or response in support of their respective position in its Order of May 23, 2011 [Docket No. 2666], the Reorganized AHF Board (“the Board”) files this supplemental response to the Emergency Motion for Interim and Final Order Interpreting/Enforcing the Confirmation Order and Plan filed by Walter O’Cheskey, the Trustee of the AHF Liquidating Trust.

A.

BACKGROUND

1. On March 26, 2001, the Board terminated the services of Alan Weiner as President and Chief Executive Officer of the Reorganized Debtor as of March 31, 2011.

2. In his Motion [Docket No. 2260], the Trustee urged that an interim order retaining Alan Weiner as President and Chief Executive Officer was necessary to prevent irreparable harm and to maintain integrity of the bankruptcy process. *See* paragraph 4 of the Motion. The Trustee requested the interim order interpreting/enforcing the Confirmation Order and Plan and maintaining Alan Weiner as the President and Chief Executive Officer of the Reorganized Debtor until a final hearing. *See* paragraph 12 of the Motion.

3. The Court entered an interim order on April 5, 2011 [Docket No. 2292]. The Court enjoined the Board from terminating Mr. Weiner until further order of the Court to “maintain status quo and to prevent immediate irreparable injury,” That order set the motion for final hearing on May 19, 2011.

4. On April 25, 2011, the Court entered an order [Docket No. 2537] that the injunction issued under the Court’s interim order enjoining the Board from terminating Mr. Weiner would remain in place pending further order of the Court and set a final hearing for May 19, 2011.

5. By order of May 16, 2011 [Docket No. 2625], the final hearing was continued until June 9, 2011.

6. By order of May 23, 2011 [Docket No. 2662], the Court cancelled the June 9, 2011 hearing and allowed the parties to file additional pleadings or briefs.

B.

THE TRUSTEE'S MOTION IS NOW MOOT

7. The Board has reached an understanding with Mr. Weiner regarding his services as President and Chief Executive officer of the Reorganized Debtor and has rescinded its decision to terminate his services. A copy of the letter advising Mr. Weiner of this decision was e-mailed to him on May 26, 2011. A copy of the letter is attached hereto as Exhibit "A." Because the termination has been rescinded, the Trustee's Motion is moot. *North Carolina v. Rice*, 404 U.S. 244, 246 (92 S. Ct. 402), 39 L. Ed. 2d 413 (1971); *In Re. Multiworth Partnership, Ltd.*, No. 10-70229, Adversary No. 10-07009, 2010 WL 2721444 at *3 (Bankr. F.D. Tex. July 8, 2010); *In Re. Andrews*, No. 94-21308, Adversary No. 02-001, 2009 WL 1076831 at *8 (Bankr. F.D. Tex. Apr. 2, 2009). Accordingly, the Trustee's Motion should be denied as moot.¹

Dated May 31, 2011.

Respectfully submitted,

Thomas C. Riney
Texas Bar No. 16935100
triney@rineymayfield.com
RINEY & MAYFIELD LLP
600 Maxor Building
320 S. Polk Street
Amarillo, Texas 79101
Telephone: 806.468.3201
Facsimile: 806.376.4509

/s/ Thomas C. Riney

ATTORNEY FOR THE REORGANIZED AHF
BOARD

¹ The Board disputes the characterization of statements by its counsel in the court's orders of April 25, 2011 [Docket No. 2537] and May 23, 2011 [Docket No. 2662] although those matters are likewise now probably moot in light of the rescission of the termination.

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of May 2011, I electronically filed a true and correct copy of the foregoing document with the Clerk of Court for the United States Bankruptcy Court, Northern District of Texas, Amarillo Division, using the electronic case filing system of the Court. The electronic case filing system sent a “Notice of Electronic filing” to those attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Thomas C. Riney